

[1]

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT  
JODHPUR

**ORDER**

Rajkumar & Anr. Vs. State of Rajasthan & Anr..  
**S.B. CR. REVISION PETITION NO.461/2006**

Against order dated 06.03.2006 passed by Addl.  
Judge No.1, Bikaner in Criminal Appeal  
No.49/2005.

DATE OF ORDER :: 14<sup>th</sup> November, 2006.

**PRESENT**

**HON'BLE MR.JUSTICE SATYA PRAKASH PATHAK**

Mr. Bheemkant Vyas for petitioners.  
Mr. V.R. Mehta, Pubic Prosecutor for the State.

**BY THE COURT:**

Aggrieved by the dismissal of their appeal by the learned Addl. Sessions Judge No.1, Bikaner vide order dated 06.03.2006 passed in Criminal Appeal No.49/2005 affirming the judgment dated 28.03.2005 passed by Civil Judge (Jr.Div.) & Judicial Magistrate in Criminal Case No.465/2003 convicting the petitioners for the offence under Sec.323 and 341 of the IPC but allowing them benefit under Sec.3 of the Probation of Offenders Act, the petitioners have approached

this Court by filing the present revision petition under Sec.397 and Sec.401 Cr.P.C.

The contention of the learned counsel is that the learned trial Court has committed illegality in convicting the accused petitioners under Sec.323, 341 and thereafter giving them benefit of Sec.3 of the Probation of Offenders Act. According to the learned counsel, no case was made out against the petitioners. It has also been submitted that Rs.200/- levied as cost of the prosecution is excessive, therefore, the judgment of the learned trial Court and that of the learned appellate Court which has affirmed the judgment of trial Court, both requires to be set aside.

I have considered the submissions made before me.

A perusal of the judgment of learned trial Court reveals that the learned trial Court found that the accused petitioners stopped the complainant on main road in Ganga Sahar at about 11:30 AM on 14.05.2001 and started beating him and also caused simple injuries. The trial Court found that PW1 Mohanlal has supported the version of

[3]

complainant who is PW2 Kanwarchand. The other evidence, which has been considered is of PW3 Dr. Rajendra Kumar. The trial Court, on the basis of material available on record, come to the conclusion that the accused petitioners were responsible for the incident, therefore, convicted them under Sec.323 & 341 of the IPC and instead of awarding sentence gave them benefit of probation under Sec.3 of the Probation of Offenders Act and levied cost of prosecution.

The above judgment of the learned trial Court suffers from no legal infirmity. The learned appellate Court while upholding the judgment of the learned trial Court has assigned reasons, therefore, in my humble opinion, the contentions of the learned counsel for the accused petitioners are not liable to be accepted and there appears no merit in this revision petition, which deserves to be dismissed summarily.

In the result, the petition stands dismissed summarily.

**(SATYA PRAKASH PATHAK) J.**

/jpa